

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2007-1024-MWD-E **TCEQ ID:** RN100604321 **CASE NO.:** 34040
RESPONDENT NAME: Town of Prosper

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: Town of Prosper WWTP, approximately 300 feet west of the intersection of the St. Louis Railroad and 7th Street, Prosper, Collin County

TYPE OF OPERATION: Wastewater treatment

SMALL BUSINESS: ☐ Yes ☒ No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on November 12, 2007. No comments were received.

CONTACTS AND MAILING LIST:
TCEQ Attorney/SEP Coordinator: Ms. Melissa Keller, SEP Coordinator, Enforcement Division, MC 219, (512) 239-1768
TCEQ Enforcement Coordinator: Mr. Marlin Bullard Enforcement Division, Enforcement Team 7, MC R-09, (254) 761-3038;
 Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171
Respondent: The Honorable Charles Niswanger, Mayor, Town of Prosper, P.O. Box 307, Prosper, Texas 75078
Respondent's Attorney: Not represented by counsel on this enforcement matter

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: March 15, 2007</p> <p>Date of NOV/NOE Relating to this Case: May 15, 2007 (NOE)</p> <p>Background Facts: This was a routine record review. One violation was documented.</p> <p>WATER</p> <p>Failed to comply with permitted effluent limitations [Tex. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System Permit ("TPDES") No. WQ0010915001, Interim Effluent Limitations and Monitoring Requirements Nos. 1, 2, 3 and 6].</p>	<p>Total Assessed: \$8,960</p> <p>Total Deferred: \$1,792 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$7,168</p> <p>Total Paid (Due) to General Revenue: \$0</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>1) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A).</p> <p>2) The Order will also require the Respondent to, within 60 days after the effective date of this Agreed Order, achieve compliance with the permitted effluent limits contained in TPDES Permit No. WQ0010915001 and submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance.</p>

Additional ID No(s): Wastewater Permit WQ0010915001

Attachment A
Docket Number: 2007-1024-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Town of Prosper
Payable Penalty Amount:	Seven Thousand One Hundred Sixty-Eight Dollars (\$7,168)
SEP Amount:	Seven Thousand One Hundred Sixty-Eight Dollars (\$7,168)
Type of SEP:	Pre-approved
Third-Party Recipient:	Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")- Wastewater Treatment Assistance
Location of SEP:	Collin County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to provide low income rural homeowners with assistance to enable the repair or replacement of their failing on-site wastewater systems. SEP monies will be used to pay for the labor and materials costs related to repairing or replacing the failing systems. The recipients will not be charged for the cost of replacing or repairing the failing systems.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by protecting water sources for drinking, recreation, and wildlife from contamination from failing treatment systems

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development Areas, Inc.
1716 Briarcrest Drive, Suite 510
Bryan, Texas 77802-2700

3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Texas Commission on Environmental Quality
Financial Administration Division, Revenues
Attention: Cashier, MC 214
P.O. Box 13088
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision May 25, 2007

TCEQ

DATES

Assigned

21-May-2007

PCW

27-Jun-2007

Screening

26-Jun-2007

EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent

Town of Prosper

Reg. Ent. Ref. No.

RN100604321

Facility/Site Region

4-Dallas/Fort Worth

Major/Minor Source

Minor

CASE INFORMATION

Enf./Case ID No.

34040

Docket No.

2007-1024-MWD-E

Media Program(s)

Water Quality

Multi-Media

No. of Violations

1

Order Type

1660

Enf. Coordinator

Laurie Eaves

EC's Team

Enforcement Team 1

Admin. Penalty \$

Limit Minimum

\$0

Maximum

\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1

\$4,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History

144% Enhancement

Subtotals 2, 3, & 7

\$5,760

Notes

The Respondent self-reported 23 months of effluent quality violations and was issued one Agreed Order containing denial language and three NOV's (one for same or similar violations and two not considered the same or similar).

Culpability

No

0% Enhancement

Subtotal 4

\$0

Notes

The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply

0% Reduction

Subtotal 5

\$0

Before NOV

NOV to EDPRP/Settlement Offer

Extraordinary

Ordinary

N/A

X

(mark with x)

Notes

The Respondent does not meet the good faith criteria.

0% Enhancement*

Subtotal 6

\$0

*Capped at the Total EB \$ Amount

Total EB Amounts

\$175

Approx. Cost of Compliance

\$2,000

SUM OF SUBTOTALS 1-7

Final Subtotal

\$9,760

OTHER FACTORS AS JUSTICE MAY REQUIRE

-8%

Adjustment

-\$800

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Recommended reduction to prevent the self-reported violations from overly impacting the penalty.

Final Penalty Amount

\$8,960

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty

\$8,960

DEFERRAL

20%

Reduction

Adjustment

-\$1,792

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY

\$7,168

Screening Date 26-Jun-2007

Docket No. 2007-1024-MWD-E

PCW

Respondent Town of Prosper

Policy Revision 2 (September 2002)

Case ID No. 34040

PCW Revision May 25, 2007

Reg. Ent. Reference No. RN100604321

Media [Statute] Water Quality

Enf. Coordinator Laurie Eaves

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
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NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	24	120%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 144%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The Respondent self-reported 23 months of effluent quality violations and was issued one Agreed Order containing denial language and three NOVs (one for same or similar violations and two not considered the same or similar).

Total Adjustment Percentage (Subtotals 2, 3, & 7) 144%

Screening Date 26-Jun-2007		Docket No. 2007-1024-MWD-E		PCW
Respondent Town of Prosper		<small>Policy Revision 2 (September 2002)</small>		
Case ID No. 34040		<small>PCW Revision May 25, 2007</small>		
Reg. Ent. Reference No. RN100604321				
Media [Statute] Water Quality				
Enf. Coordinator Laurie Eaves				
Violation Number 1				
Rule Cite(s)		Tex. Water Code § 26.121(a), Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0010915001, Interim Effluent Limitations and Monitoring Requirements Nos. 1, 2, 3 and 6		
Violation Description		Failed to comply with permitted effluent limitations as detailed in the attached effluent violation chart, as documented during a record review conducted on March 15, 2007.		
Base Penalty				\$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm				Percent
	Release	Major	Moderate	Minor	
	Actual			X	
	Potential				10%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes

A simplified model was used to evaluate the effects of contaminants on human health and the environment. Failure to comply with permit limits resulted in the exposure of an insignificant amount of contaminants which did not exceed protective levels.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events	4		Number of violation days	274
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<small>mark only one with an x</small>	daily	
	monthly	
	quarterly	X
	semiannual	
	annual	
	single event	

Violation Base Penalty \$4,000

Four quarterly events are recommended.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount	\$175
	Violation Final Penalty Total
	\$8,960
This violation Final Assessed Penalty (adjusted for limits)	
\$8,960	

Economic Benefit Worksheet

Respondent Town of Prosper
Case ID No. 34040
Reg. Ent. Reference No. RN100604321
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling	\$2,000	1-Apr-2006	1-Jan-2008	1.8	\$175	n/a	\$175
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost associated with additional oversight and sampling which might have prevented or alleviated the violations. Date required is the initial month of noncompliance. Final date is the anticipated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,000

TOTAL

\$175

Town of Prosper
RN100604321
Docket No. 2007-1024-MWD-E

Month	Dissolved Oxygen Minimum Permit Limit = 4 mg/L	pH Minimum Permit Limit = 6 s.u.	Chlorine Minimum Permit Limit = 1 mg/L	Ammonia Nitrogen Daily Average Concentration Permit Limit = 3 mg/L	Ammonia Nitrogen Daily Maximum Concentration Permit Limit = 10/mg/L
04/2006	c	c	c	5.4	10.8
05/2006	c	c	c	3.9	c
07/2006	3.92	c	0.30	c	c
08/2006	3.89	c	0.70	3.1	c
10/2006	c	c	c	6.6	13.9
11/2006	c	5.94	c	c	c
12/2006	3.77	5.69	c	4.4	c
01/2007	3.77	5.68	c	5.9	11.6
02/2007	c	c	c	16.1	17.30

c = compliant

mg/L = milligrams per liter

s.u. = standard units

Compliance History

Customer/Respondent/Owner-Operator: CN600652499 Town of Prosper Classification: AVERAGE Rating: 2.52
Regulated Entity: RN100604321 TOWN OF PROSPER WWTP Classification: AVERAGE Site Rating: 2.04
ID Number(s): WASTEWATER PERMIT WQ0010915001
WASTEWATER PERMIT TPDES0026514
WASTEWATER PERMIT TX0026514
WASTEWATER PERMIT WQ0010915001
WASTEWATER PERMIT TX0026514
WASTEWATER LICENSING LICENSE WQ0010915001
Location: approximately 300 feet west of the intersection of the St. Louis Railroad
and 7th Street, Prosper, Collin County

Rating Date: September 01 06 Repeat Violator: NO

TCEQ Region: REGION 04 - DFW METROPLEX

Date Compliance History Prepared: June 26, 2007

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: June 26, 2002 to June 26, 2007

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Laurie Eaves Phone: 512/239-4495

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
Effective Date: 03/03/2005 ADMINORDER 2004-0749-MWD-E
Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov: Effluent Limits PERMIT
Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

- 1 07/15/2002 (174052)
- 2 08/19/2002 (174056)
- 3 09/13/2002 (174059)
- 4 10/16/2002 (302093)
- 5 10/21/2002 (174062)
- 6 11/21/2002 (174066)
- 7 12/13/2002 (174070)
- 8 01/21/2003 (174073)
- 9 02/19/2003 (174036)
- 10 03/17/2003 (174039)
- 11 04/16/2003 (174042)
- 12 05/19/2003 (174045)
- 13 06/16/2003 (174049)
- 14 06/27/2003 (119969)
- 15 07/14/2003 (174053)
- 16 09/12/2003 (302117)
- 17 10/03/2003 (249687)
- 18 10/17/2003 (302120)
- 19 11/19/2003 (302122)
- 20 12/15/2003 (302128)
- 21 01/12/2004 (302108)
- 22 01/20/2004 (302131)
- 23 02/23/2004 (302074)
- 24 03/22/2004 (302084)
- 25 04/06/2004 (266778)
- 26 04/16/2004 (302086)
- 27 05/18/2004 (302089)

28 06/21/2004 (302097)
29 09/20/2004 (354786)
30 11/22/2004 (354783)
31 11/22/2004 (354784)
32 11/22/2004 (354785)
33 11/22/2004 (354787)
34 11/22/2004 (354788)
35 01/12/2005 (383346)
36 01/27/2005 (383347)
37 02/24/2005 (383343)
38 03/02/2005 (383345)
39 03/09/2005 (383344)
40 04/01/2005 (376128)
41 04/19/2005 (430212)
42 05/12/2005 (430213)
43 06/08/2005 (430214)
44 07/22/2005 (430215)
45 10/03/2005 (471056)
46 10/31/2005 (442150)
47 12/02/2005 (471057)
48 12/22/2005 (471058)
49 01/25/2006 (471059)
50 03/01/2006 (471054)
51 04/13/2006 (471055)
52 06/02/2006 (499907)
53 06/02/2006 (499908)
54 07/10/2006 (499909)
55 07/31/2006 (489133)
56 09/06/2006 (521999)
57 09/06/2006 (522000)
58 09/19/2006 (530991)
59 09/22/2006 (522001)
60 09/27/2006 (522002)
61 10/25/2006 (546663)
62 11/20/2006 (546664)
63 12/22/2006 (546665)
64 01/22/2007 (546666)
65 02/26/2007 (546662)
66 05/15/2007 (553981)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 02/28/2003 (174039)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 03/31/2003 (174042)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 04/30/2003 (174045)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2003 (174049)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 06/23/2003 (119969)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to properly collect effluent samples.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 317 317.4(a)(8)
30 TAC Chapter 317 317.7(f)
Description: Failure to properly protect the public water distribution system.

Date: 06/30/2003 (174053)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 07/31/2003 (302108)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 09/30/2003 (302120)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 10/31/2003 (302122)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 01/31/2004 (302074)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 02/29/2004 (302084)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 01/31/2005 (383343)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 03/31/2005 (430212)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 04/01/2005 (376128)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 317 317.4(a)(8)
Description: Failure to provide a reduced pressure backflow prevention assembly device (RPBA) at the plant's main potable water service line.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(11)(B)
Rqmt Prov: PERMIT WQ0010915-001
Description: Failure to complete and submit the 2004 annual sludge DMR with attachments by September 1, 2004.
Self Report? NO Classification: Moderate
Citation: TWC Chapter 26 26.121
Rqmt Prov: PERMIT WQ0010915-001
Description: Failure to prevent a discharge which has reasonable likelihood of adversely affecting human health or the environment.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov: PERMIT WQ0010915-001
Description: Failure to comply with TCR permit limitations.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov: PERMIT WQ0010915-001
Description: Failure to maintain the effluent flow measuring device.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov: PERMIT WQ0010915-001
Description: Failure to comply with permit limitations.

Date: 04/30/2005 (430213)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 11/30/2005 (471058)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 04/30/2006 (499908)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2006 (499909)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 07/31/2006 (522000)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 08/31/2006 (522001)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 09/19/2006 (530991)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

30 TAC Chapter 305, SubChapter F 305.125(17)

Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 10/31/2006 (546664)

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 11/30/2006 (546665)

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 12/31/2006 (546666)

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 01/31/2007 (546662)

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 002/28/2007

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING THE
TOWN OF PROSPER
RN100604321

§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2007-1024-MWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the Town of Prosper ("the Town") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Town appear before the Commission and together stipulate that:

1. The Town owns and operates a wastewater treatment facility approximately 300 feet west of the intersection of the St. Louis Railroad and 7th Street in Prosper, Collin County, Texas (the "Facility").
2. The Town has discharged wastewater into or adjacent to any water in the state under TEX. WATER CODE ch. 26
3. The Commission and the Town agree that the Commission has jurisdiction to enter this Agreed Order, and that the Town is subject to the Commission's jurisdiction.
4. The Town received notice of the violations alleged in Section II ("Allegations") on or about May 20, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Town of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Eight Thousand Nine Hundred Sixty Dollars (\$8,960) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). One Thousand Seven Hundred Ninety-Two Dollars (\$1,792) is deferred contingent upon the Town's timely and satisfactory compliance with all the terms of this Agreed Order and Seven Thousand One Hundred Sixty-Eight Dollars (\$7,168) shall be conditionally offset by the Town's completion of a Supplemental Environmental Project ("SEP").
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Town have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Town has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Town is alleged to have failed to comply with permitted effluent limitations as detailed in the attached effluent violation chart, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System Permit ("TPDES") No. WQ0010915001, Interim Effluent Limitations and Monitoring Requirements Nos. 1, 2, 3 and 6, as documented during a record review conducted on March 15, 2007.

Month	Dissolved Oxygen Minimum Permit Limit = 4 mg/L	pH Minimum Permit Limit = 6 s.u.	Chlorine Minimum Permit Limit = 1 mg/L	Ammonia Nitrogen Daily Average Concentration Permit Limit = 3 mg/L	Ammonia Nitrogen Daily Maximum Concentration Permit Limit = 10/mg/L
04/2006	c	c	c	5.4	10.8
05/2006	c	c	c	3.9	c
07/2006	3.92	c	0.30	c	c
08/2006	3.89	c	0.70	3.1	c
10/2006	c	c	c	6.6	13.9
11/2006	c	5.94	c	c	c
12/2006	3.77	5.69	c	4.4	c
01/2007	3.77	5.68	c	5.9	11.6
02/2007	c	c	c	16.1	17.30

c = compliant

mg/L = milligrams per liter

s.u. = standard units

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III. DENIALS

The Town generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Town pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Town's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Town of Prosper, Docket No. 2007-1024-MWD-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Town shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6, Seven Thousand One Hundred Sixty-Eight Dollars (\$7,168) of the assessed administrative penalty shall be offset with the condition that the Town implement the SEP defined in Attachment A, incorporated herein by reference. The Town's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. It is further ordered that the Town shall, within 60 days after the effective date of this Agreed Order, achieve compliance with the permitted effluent limits contained in TPDES Permit No. WQ0010915001 and submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section, Manager
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2301 Gravel Drive
Fort Worth, Texas 76118-6951

4. The provisions of this Agreed Order shall apply to and be binding upon the Town. The Town is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If the Town fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Town's failure to comply is not a violation of this Agreed Order. The Town shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Town shall notify the Executive Director within seven days after the Town becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Town shall be made in writing to the Executive Director. Extensions are not effective until the Town receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Town in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
9. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Town, or three days after the date on which the Commission mails notice of the Order to the Town, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

Town of Prosper
DOCKET NO. 2007-1024-MWD-E
Page 5

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

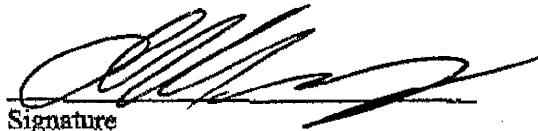
12/03/2007
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

09-18-07
Date

CHARLES NISWANBER
Name (Printed or typed)
Authorized Representative of the
Town of Prosper

MAYOR
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

Attachment A
Docket Number: 2007-1024-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Town of Prosper
Payable Penalty Amount:	Seven Thousand One Hundred Sixty-Eight Dollars (\$7,168)
SEP Amount:	Seven Thousand One Hundred Sixty-Eight Dollars (\$7,168)
Type of SEP:	Pre-approved
Third-Party Recipient:	Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")- Wastewater Treatment Assistance
Location of SEP:	Collin County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to provide low income rural homeowners with assistance to enable the repair or replacement of their failing on-site wastewater systems. SEP monies will be used to pay for the labor and materials costs related to repairing or replacing the failing systems. The recipients will not be charged for the cost of replacing or repairing the failing systems.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by protecting water sources for drinking, recreation, and wildlife from contamination from failing treatment systems

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development Areas, Inc.
1716 Briarcrest Drive, Suite 510
Bryan, Texas 77802-2700

3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Texas Commission on Environmental Quality
Financial Administration Division, Revenues
Attention: Cashier, MC 214
P.O. Box 13088
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

